

APPENDIX A

Proposed Amendments to Arizona Rules of Civil Procedure

Rule 45. Subpoena

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(b) For Attendance of Witnesses at Hearing, Trial or Deposition; Objections

(1) *Issuing Court.* Except as otherwise provided in Rule 45.1, a subpoena commanding a person to attend and give testimony at a hearing or trial shall issue from the superior court for the county in which the hearing or trial is to be held. . . .

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Rule 45.1. Interstate Depositions and Discovery

(a) **Short Title.** This Rule may be cited as the Uniform Interstate Depositions and Discovery Rule.

(b) **Definitions.** In this Rule:

(1) Foreign jurisdiction means a state other than this state.

(2) Foreign subpoena means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(3) Person means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(4) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular

possession subject to the jurisdiction of the United States.

(5) Subpoena means a document, however denominated, issued under authority of a court of record requiring a person to:

(i) attend and give testimony at a deposition;

(ii) produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(iii) permit inspection of premises under the control of the person.

(c) Issuance of subpoena.

(1) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this act does not constitute an appearance in the courts of this state.

(2) When a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(3) A subpoena under subsection (c)(2) must:

(A) incorporate the terms used in the foreign subpoena; and

(B) contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(d) Service of subpoena. A subpoena issued by a clerk of court under subsection (c)

of this Rule must be served in compliance with Rule 45.

(e) **Deposition, Production, and Inspection.** Rule 45 applies to subpoenas issued under subsection (c) of this Rule.

(f) **Application to court.** An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under subsection (c) must comply with the rules or statutes of this state and be submitted to the court in the county in which discovery is to be conducted.

(g) **Uniformity of application and construction.** In applying and construing this Rule, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it

(h) **Application to pending actions.** This Rule applies to requests for discovery in cases pending on [the effective date of this subsection].

(i) **Effective date.** This Rule takes effect _____.